



Atty. Docket: 15-UL-5584

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of:

Charles C. Brackett : Group Art Unit: 3626
Serial No.: 09/557,153 : Examiner: Frenel, V.
Filed: April 24, 2000
Title: IMAGING SYSTEM HAVING MEANS FOR
CREATING, MANAGING AND SELECTING
FROM A LIST OF EXAM DESCRIPTIONS

Hon. Commissioner for Patents
Alexandria, VA 22313

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In accordance with the OG Notice of July 12, 2005, the Applicant respectfully submits this Pre-Appeal Brief Request for Review, which is being filed concurrently with a Notice of Appeal.

In the Final Rejection dated May 11, 2005, all claims (19-30) were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,208,974 to Campbell *et al.* in view of U.S. Patent No. 5,077,666 to Brimm *et al.* The Applicant traverses this ground of rejection for the following reasons.

At the outset, the Applicant believes that a brief overview of Applicant's claimed invention would be helpful before proceeding with discussion of the cited prior art teachings. What the Applicant has conceived is a graphical user interface wherein an interactive screen presents a list of exam descriptions. The interactive Exam Description screen can be used in at least the following two ways. First, a list

of exam descriptions can be created or modified by inserting an exam description into the Edit field on the Exam Description screen ("second screen" in claim 19) and then clicking on the virtual ADD button on the Exam Description screen. Second, the user can click on any exam description in the displayed list and then depress the SET button on the console to select the highlighted exam description for inclusion in the Exam Description field displayed on the New Patient screen ("first screen" in claim 19). Thus, the claimed invention provides the convenience of a single screen for both creating a reference list of exam descriptions and selecting from that list in order to fill in a form.

Neither Campbell nor Brimm disclose or suggest anything like the foregoing dual-function graphical user interface screen displaying a list of exam descriptions. Nor do these references contain any suggestion that elements from the respective references could be combined to arrive at such a graphical user interface screen. The Examiner has indulged in hindsight reconstruction of the claimed invention, taking various elements willy-nilly from anywhere in the Campbell and Brimm without regard to how those elements fit together and whether the combined result would indeed be the claimed invention. Neither reference discloses or suggests filling in a field on one screen by referring to a list of exam descriptions on a different screen, which different screen also allows the list to be created or modified.

In ¶ C (pp. 4-5) of the Final Rejection, the Examiner cites to Campbell for teaching a list of tentative diagnoses, as seen in Figure 9 of Campbell. As stated in column 17, lines 14-24, of Campbell, the doctor can select a diagnosis from a rule out list 906 (see Fig. 9), which is then moved to the tentative diagnosis box 908. This is nothing more than a teaching of clicking on an item in one field, in response to which that item is moved to another field on the same screen. While Applicant's claimed invention involves moving an item from an Edit field on the Exam Description screen to the list field on the same screen, the Edit field is fillable by the user. The rule out box in Campbell is not.

Furthermore, an exam description is different than a diagnosis. As explained on page 4 of Applicant's specification, the term "exam description" is a term of art used in the DICOM protocol. The term "description" is not being used in a broad sense to mean any piece of information that describes any characteristic or aspect of an exam, such as when the exam was performed, but rather the term "description" is being used synonymously with "kind" or "type". The Webster's II New College Dictionary, 1995, sets forth the following meaning: "**description:** . . . 4. a kind or type (flowers of every *description*)". This is the sense in which DICOM uses the term "exam description", namely, a value indicating the kind or type of exam. The list of diagnoses in Campbell is not a list of exam types.

The Examiner also relies on the edit button 2310 in the Wellness Plan Maintenance screen shown in Figure 23 of Campbell. The Examiner asserts that this "can also be used as a means of editing or modifying a list of description". The Applicant has already shown in the November 26, 2004 Response that this theory lacks merit. How does the ability to cancel a Wellness Plan using a button make it obvious provide an Edit field that can be filled for later insertion in a list of exam descriptions (i.e., exam types) that are displayed on the same screen?

In ¶ D (p. 5) of the Final Rejection, the Examiner cites to Campbell for teaching physical exam buttons that the user can click on. When the user clicks on any of these buttons, the system launches a new screen for the selected part of the physical exam. What does this have to do with building or modifying a list of exam descriptions? Campbell says nothing about how the physical exam buttons are generated.

Finally, with regard to Brimm, the Examiner in ¶ B (p. 4) of the Final Rejection relies upon the chronological task list that can be modified to reflect that various tasks have been performed. Figure 7 of Brimm shows a displayed task list. Figure 8A shows the task list after a task has been highlighted by clicking, in response to which a virtual CHART button appears on the screen. Figure 8B shows what happens when the CHART button is clicked on, i.e., a pop-up window appears showing fields of information for the clicked-on task. The nurse then charts directly onto the pop-up window,

entering information to indicate successful completion of the highlighted task. The pop-up window disappears when the nurse clicks on the OK button. When the nurse selects the SIGN button, the screen changes to what is shown in Figure 8C, in which the previously highlighted, now completed task in the list has now been deleted. Brimm does not disclose any screen for creating the task list or adding tasks to the list. Nor does Brimm disclose that the highlighted task can be entered in a field on another screen by appropriate clicking.

In view of the foregoing, it is clear that neither Campbell nor Brimm discloses Applicant's dual-function exam description screen as claimed. Furthermore, the Examiner has failed to show how the teachings of Campbell and Brimm could be combined to arrive at a dual-function exam description screen as claimed. In the August 24, 2004 Office Action, the Examiner merely paraphrased Applicant's claim language when asserting what features from Brimm would have been obvious to combine with the teaching of Campbell (see the paragraph beginning at the bottom of page 3 and ending at line 4 on page 4 of the Office Action). In the Final Rejection, the Examiner quotes extensively from both references but again fails to indicate which teaching from Brimm should be combined with which teaching of Campbell and why it would be obvious to combine those features. The Examiner's suggestion, in the August 24, 2004 Office Action, that Brimm's statement concerning the desirability of a "user-friendly" system (see col. 3, lines 10-14) would make it obvious to combine the

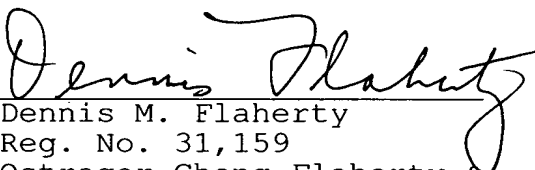
teachings of Brimm and Campbell has no merit in the absence of a clear explication regarding which aspects of Brimm should be combined with which aspects of Campbell.

In summary, there is nothing in Campbell and Brimm that would have lead a person skilled in the art to conceive the Applicant's dual-function exam description screen as claimed because neither reference discloses or suggests a screen for building a list of exam descriptions (i.e., exam types) using a fillable Edit field.

In view of the foregoing, the Applicant submits that this application is in condition for allowance. Reconsideration of the application and allowance of claims 19-30 are hereby requested.

Respectfully submitted,

April 4, 2006
Date


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April 4, 2006
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